THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No.20885of 1997

18-04-2007

Between:-

The Divisional Forest Officer,
Wild Life management Division,
Jannaram and two others.

Petitioners

And

The Chairman Industrial Tribunal cum-
Labour Court, Godavarikhani and another.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No.20885 of 1997

Oral order:

The petitioners assail the award dated 08-07-1997 of the Industrial Tribunal-cum-Labour Court, Godavarikhani in I.D.No. 11 of 1994.

The second respondent lodged a claim under Section 2A (2) of the Industrial Disputes Act, 1947 (for short 'the Act') seeking reinstatement with continuity of service and back wages, alleging that he was orally terminated from service in 1991 by the first petitioner herein without either a charge memo or an enquiry.

The second respondent claimed to have been appointed as a night Watchman at Jannaram in Adilabad district by the first respondent on 01-11-1986 through proceedings dated 08-09-1988; to have been paid

Rs.300-00 per month initially which was later enhanced to Rs.350-00 per month and eventually to Rs.500-00 per month. He claimed continuous service for nearly five years and to have been orally terminated in April, 1991.

Before the Labour Court, the first petitioner filed a counter denying the allegations and asserting that the workman had never served as a Watchman and therefore the question of his oral termination does not arise. According to the first respondent a service certificate was issued to one Motapalkala Rajam and Bandi Rajam had never worked under the respondent. In the counter before the Labour Court, it was also asserted that one Batti Rajam had worked as a petty contractor for the works executed by the Forest Range Officer, but not the second respondent herein. It was also asserted that the workman had earlier filed O.A.No. 44844 of 1991 before the Andhra Pradesh Administrative Tribunal, Hyderabad (for short 'the Administrative Tribunal') seeking regularization and that the Administrative Tribunal had directed to consider the service of the workman subject to his putting in continuous service. As the workman never worked in the department, his case was not considered. This is the broad defence asserted by the petitioners before the Labour Court.

In the award under challenge in this writ petition, the Labour Court found that the workman had produced the certificate issued on 20-04-1988 whereunder Bandi

Rajam son of Bheemalinga is certified to have worked on daily wage basis temporarily with breaks of service. The workman also examined himself as W.W.1 and produced the certificate Ex.W.1. On the basis of this material and in the absence of any evidence whatsoever marshaled on behalf of the petitioners, the Labour Court found that the claimant had demonstrated the requisite degree of proof entitling him to the benefits under Section 25F of the Act; that he was orally terminated from service in violation of Section 25F of the Act and therefore was entitled to relief. Accordingly the award was passed directing the petitioners to reinstate the workman with continuity of service but without any back wages. Back wages were denied as the workman had belatedly approached the Labour Court.

The selfsame grounds as have found disfavour by the Labour Court are reiterated in this writ petition. The workman had produced the certificate-Ex.W.1 and had also asserted in his oral testimony that though his name is Batti Rajam since he was driving the cart, a certificate was issued describing him as Bandi Rajam. Since there is no evidence produced by the petitioners/management to counter this oral evidence on behalf of the workman, the Labour Court granted relief.

This Court discerns no infirmity in the award of the Labour Court, warranting interference under Article 226 of the Constitution of India. There are no merits. The writ

petition is accordingly dismissed. No costs.

GODA RAGHURAM, J

Dated:18-04-2007
Pvks/*